

REMARKS

These remarks are directed to the office action mailed July 18, 2008, setting a three month shortened statutory period for response set to expire on October 18, 2008. The office action issued by the examiner and the citations referred to in the office action have been carefully considered.

Prompt reconsideration is requested in view of the above claim amendments and the following remarks. As indicated, amendments introduce no new matter and are not to be construed as an indication to the public of any subject matter. Claims 1, 2, 4, and 5 are currently pending.

Claim rejections - 35 U.S.C. §102

Claims 1, 2, and 5 have been rejected under 35 USC §102(b) as being anticipated by Pielstick (U.S. Patent No. 2,682,365) and Griepentrog (Pub. No. EP 14941 A1).

Claims 1 and 5 have been amended to include the feature of the inlet and outlet to the fluid path being "adapted for connection to an engine cooling system, such that fluid in the fluid path is pressurized, in use." Support for the amendment can be found at page 5, lines 10-12 and 18-20 of the specification and in the drawings. A person of ordinary skill in the art would have the implicit understanding that fluid in the fluid path must be under pressure if the fluid path is connected to the engine cooling system, since the engine cooling system would be pressurized.

It is respectfully submitted that neither of the references discloses the feature of the inlet and outlet to the fluid path being adapted for connection to an engine cooling system, such that, in use, fluid in the fluid path is pressurized, in combination with the other features claimed. In fact, Griepentrog teaches away from the fluid path being pressurized. See, for example, page 2, paragraph 3 of the English translation, which states that it is the object of Griepentrog to devise a cooled housing for turbines or compressors which manages without additional, mechanically driven conveying means (emphasis added).

It is well established that in respect of an anticipation rejection, the prior art must disclose all the elements of the invention as claimed. ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

Accordingly, since the cited references fail to disclose each and every element set forth in the pending claims, withdrawal of the 35 USC §102 rejection is respectfully requested.

Claim 2 depends directly from claim 1. In the circumstances, since claim 1 is, with respect, allowable for the reasons discussed above, it is respectfully submitted that claim 2 is similarly allowable.

Claim rejections - 35 U.S.C. §103

Claim 4 has been rejected under 35 USC 103(a) as being unpatentable over Pielstick or Griepentrog in view of Johnston et al. (U.S. Patent No. 5,857,332).

It is well established that the cited references must teach or suggest all the claim limitations. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)).

In light of the amendments to claim 1, the question of whether Johnston discloses the jacket being of aluminium and connected to the housing by welding is irrelevant, since Applicants respectfully submit that Johnston fails to disclose or suggest the feature of the inlet and outlet to the fluid path being adapted for connection to an engine cooling system, such that fluid in the fluid path is pressurized, in use. Accordingly, Johnston fails to cure the deficiencies of Pielstick or Griepentrog noted above with respect to claim 1.

Withdrawal of the 35 USC §103 rejection with respect to claim 4 is therefore respectfully requested.

Conclusion


Applicant has fully responded to each matter of substance raised in the Office Action and believes that the case is in condition for allowance. Withdrawal of the rejections and allowance of the application is therefore courteously solicited. Should the Examiner have any requests, questions or suggestions, the Examiner is invited to contact Applicant's attorney at the number listed below.

Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicants' undersigned attorney at the phone number below.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 058157-014500 is referred to when charging any payments or credits for this case.

Respectfully submitted,

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